

# THE LONDON ADVOCATE

THE NEWSLETTER OF THE LONDON CRIMINAL COURTS SOLICITORS' ASSOCIATION

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Welcome to the Summer 2020 edition of The London Advocate. Just as the previous edition focussed squarely on issues raised by the pandemic, so does this one albeit with a twist: we present "The Coronavirus Chronicles", a timeline of the lockdown from the perspective – and specifically in the tweeted words - of the criminal defence community.

Many thanks go to the (unwitting) contributors: solicitors, trainees, barristers, reporters and politicians. Together they tell of the challenges, frustrations and anxieties that will be recognised by all practitioners. There is the odd moment of levity, but the dominant theme is tireless commitment in the face of governmental indifference, administrative sclerosis and bureaucratic bloody-mindedness (so "business as usual" in more ways than one).

Later in the edition, Peter Binning assesses the potential value of technology in protecting jury trials and Bruce Reid presents his own diary of the pandemic.

As ever, any contributions or ideas for content for future editions will be warmly welcomed, simply contact the editor.

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## COMMITTEE MEETINGS

The LCCSA committee meets on the second Monday of each month at 6:30pm, for the foreseeable future, by telephone or video-conference. All members are welcome so if you wish to participate please contact the editor or Sara Boxer.



## "THE CORONAVIRUS CHRONICLES"

### MARCH

**19<sup>th</sup>:** @JusticeSummary - Shout out to the solicitors and barristers turning up at Crown Courts and Mags Courts up and down the land tomorrow to meet strangers in small conference rooms; visit cells and then do their job for their client. Must be a very worrying time.

**20<sup>th</sup>:** Schools, nurseries, pubs and restaurants around the UK are ordered to close.

@DefenceAdvocate - This 'key worker' is spending today trying to persuade a non-lawyer why he should be paid for considering material the Crown thought sufficiently relevant to serve as evidence so he can pay he staff & keep his firm running. Again.

**21<sup>st</sup>:** @jonblackbsb - Why are the crown courts still requiring a juror who contacted the court office on Friday to explain he is asthmatic, to attend on Monday? He is in his 60s and very concerned re [#Covid\\_19](#) He was told he must attend had no recent attacks and it is controlled by medication

@sdavieslaw - Perhaps the shut down of the nation in the context of our justice system, will highlight just how valuable the legal aid profession is, how horrendously dirty the courts estate is, and how poor the tech is - hopefully it propels rapid meaningful change.

**22<sup>nd</sup>:** @GraceLoncraigne - 30.6 of Standard Crime Contract. Firms not liable for non-performance if caused by epidemic. So if we refuse to attend courts in order to protect ourselves firms not liable? If serious about courts needing to close for a month, why are we still attending?

**23<sup>rd</sup>:** @jonblackbsb - For heaven's sake. Government says isolate Lord Chief Justice says jury trials no longer safe. Why are the Magistrates courts still being treated as the poor relative of the Justice system

@deels363 - Business as usual at Stratford Youth Court. No guidance on what is "urgent" means. No directive to adjourn bail cases. Parents and young people and advocates waiting outside court room. Not safe for anyone here.

@legalhackette - UPDATED guidance from [@LegalAidAgency](#)- nothing on pay as cases are delayed. On duty solicitor, as 1 lawyer tells me it, failure to see face to face incompatible with social distancing: "We can shuffle risk of death from one duty solicitor to another."

**At 8pm, the prime minister issues "a very simple instruction" to the British people: "You must stay at home." In this "moment of national emergency", people may only leave home to exercise once a day, to travel to and from work where "absolutely**

necessary”, to shop for essential items and to fulfil any medical or care needs.

24<sup>th</sup>: @HMCTSgovuk - Magistrates’ Courts will only hear urgent cases today (overnight custody & prisoner production). Parties involved in all other hearings should not attend court unless contacted directly. You’ll be notified of new hearing date. This situation may change quickly. #coronavirus

25<sup>th</sup>: The Coronavirus Act 2020 comes into force

@kirkkorner - Justice Secretary Robert Buckland told MPs yesterday courts will "return with gusto" once the coronavirus crisis is over. Asked if we will then see 'listing up to capacity of courts', the minister said: "Potentially, yes."

@EmmelineMoor - @TheLawSociety @BarristerSecret @CrimeSolicitors police asking us to go into police station to sit in a small interview room with 4 people all so they can interview on a shoplift! Why is no proportionality being applied, how is the risk, in this pandemic, justified

26<sup>th</sup>: The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 come into effect: people are no longer allowed to leave their home without reasonable excuse.

@lccsa - #COVID19 Protocol Alert Together with @CrimeSolicitors we are urging our members to protect themselves, families, staff and clients. We need to help slow demand on #NHS . Special measures are needed for special circumstances. This is your duty: <https://www.lccsa.org.uk/a-message-from-the-lccsa-clsa-attending-police-stations-magistrates-courts/>

27<sup>th</sup>: The prime minister announces that he has tested positive for coronavirus.

@HudsonKerry - Watching police on TV telling people to go home as they are "killing" people. Meanwhile police insisting solicitors attend police stations in person and sit in tiny interview rooms

@deels363 - We have a client in custody in London police station for a non-violent offence from February and possession of drugs. We have asked to attend an interview remotely but have been told that there is no CID on duty and 30% of met are off sick. They don’t even have capacity to interview but custody won’t agree to bail or release client to be interviewed at a later date as they have been told by superiors that it is “business as usual” so can’t use discretion.

@CDissington - My colleague asked to attend central London police station today for Covid-positive client.

Interview though cell wicket. Only protection was he would be asked to wear a mask. No distancing. No sanitiser. Offence was common assault

28<sup>th</sup>: The death toll from the new coronavirus passes 1,000 in the UK. Amged El-Hawrani, a 55-year-old consultant, becomes the first member of NHS staff to die from Covid-19.

@HudsonKerry - Solicitor on the ground - London police station yesterday: Duty Inspector refuses to record my representations regarding Coronavirus, stating that “HE’S HAD ENOUGH OF DEFENCE SOLICITORS USING CORONAVIRUS AS MEANS OF COMPLAINT” @metpoliceuk @TheLawSociety This has to stop.

@MelStooks - Plumstead PS has laptops but aren't able to facilitate remote interviews because "they are not linked to a network"?! Consultation & iv rooms too poky to attend. Sadly advised client to remain in cell and remain silent. He & OIC understood so why aren't laptops being connected?

@PenelopeGibbs2 - Lawyers say police custody suites are a petri-dish of Covid germs - @lccsa & @CrimeSolicitors recommending members don't attend interviews now. So, let's reduce number suspects in custody to minimum - normally 30% of police remands are for summary offences

29<sup>th</sup>: @Joanna\_Hardy - Our solicitor colleagues and friends are being asked to attend police station interviews in close quarters with no tech workaround / protection. It exposes them to risk, officers to risk, suspects to risk, society to risk and - keep up - prison populations to risk.

@kirstycoz - When I asked on Friday what measures were in place for solicitors and their clients in custody. I was simply met by the OIC shrugging and saying “We haven’t thought that far ahead”. It’s happening now. The risk is now. To everybody. Officers included.

@jonblackbsb - Yesterday in a @metpoliceuk police station a colleague was told that the officer dealing with an ABH that he had dealt with a #COVID19 positive suspect previous day it’s no big deal and should crack on with interview. No provision being made for remote attendance. Colleague refused to attend in person so police handed to next duty solicitor who on hearing reasons recorded by DSCC for colleagues’ refusal also declined to attend. Police not happy about this solidarity amongst solicitors claimed colleague was lying to second sol. The @metpoliceuk have to get to grips with this. It is NOT business as usual.

**30<sup>th</sup>:** @HudsonKerry - Police also insisting one of our clients attends police station in person tomorrow to be charged with a summary only offence. The recent RUI scandal only makes this even more ludicrous.

**31<sup>st</sup>:** @PenelopeGibbs2 - We need to talk about defendants/witnesses/plaintiffs appearing on video in these difficult times & help needed to mitigate barriers to effective participation. There are worrying indications from previous research (gov, Transform Justice, International) that video stops users feeling heard & understood.

@lccsa - President of the London Criminal Courts Solicitors Association, @HudsonKerry accused police forces of being “reckless” for operating a “business as usual approach” to arrests and court appearances during the virus scare.

@mark\_troman - feeling dislocated, tied to my desk at home... sitting in my chair, out of breath wondering how ill the virus was likely to make me... thinking of the last client I saw before noticing symptoms, a young man on remand for murder whose trial was delayed by the announcement... watching emails coming in at a rate of 1 a minute, no one knew what was happening or when any sense of when order would resume...arguing with officers that my client should not be detained and exposed to the virus, that this minor offence could be delayed a few weeks, common assault doesn't warrant avoidable contagion.

## APRIL

**1<sup>st</sup>:** @liamivolane - Thanks to the officers at Holborn who have changed their position since weekend. Was able to obtain disclosure, had a private telephone consultation and was present in interview by phone. Ensured safety of all in pandemic and access to justice and legal representation for client

**2<sup>nd</sup>:** @simonisrael - 23% of prisons in England and Wales now have virus infected inmates. Latest MoJ figures are 73 prisoners tested positive for COVID-19 across 27 jails. And 15 staff tested positive across 9 prisons

@lccsa - It's far from perfect and we are continuing to review but it is a start and we are pleased to have achieved this with our partners at @TheLawSociety @CrimeSolicitors along with @cpsuk and @PoliceChiefs #COVID19 #protocol

@CrimeLineLaw - Interview Protocol between National Police Chiefs' Council, Crown Prosecution Service, The Law Society, Criminal Law Solicitors' Association and London Criminal Courts Solicitors' Association

@ZoeGascoyne - Collaborative working between @cpsuk, @PoliceChiefs, @TheLawSociety, @CrimeSolicitors, & @lccsa to try and ensure that those at the frontline of our justice system stay safe during the pandemic

**3<sup>rd</sup>:** @Crim\_sol\_PH - This is excellent work by all those listed below supported by many firms and fee earners. It demonstrates what can be achieved by working together and how that is the only way to save our profession. The @lccsa and @CrimeSolicitors deserve special credit as they are run almost entirely by volunteers

@s\_marshy - Duty client. DSCC tell me no Covid19 symptoms. In phone consultation, client has a hacking cough and tells me he and his wife are isolating because they are both suspected of having the virus. He tells me he told the Police this. THIS why we must insist on doing i/v's remotely.

**4<sup>th</sup>:** @SkyNews - BREAKING: Prisoners in the last two months of custodial sentences will be considered for early release on temporary licenses, amid fears that a prison outbreak of #coronavirus could overwhelm local hospitals

**5<sup>th</sup>:** **The prime minister is admitted to St Thomas's Hospital with ongoing coronavirus symptoms.**

**6<sup>th</sup>:** **The prime minister is moved to an intensive care unit as his symptoms worsen. Foreign Secretary Dominic Raab assumes the prime minister's duties.**

**David Lammy MP appointed Shadow Justice Secretary**

@DavidLammy - Tonight I had a very productive call with the Justice Secretary @RobertBuckland regarding the extraordinary pressures on our courts and prisons as a result of COVID19. In this crisis, I am determined to provide responsible and constructive opposition in the national interest.

**7<sup>th</sup>:** Minister of Justice Robert Buckland gives evidence to the House of Commons Justice Committee in a hearing held remotely and in private. Only a summary is released: <https://committees.parliament.uk/committee/102/justice-e-committee/news/145866/summarised-note-of-the-meeting-with-the-lord-chancellor-from-7-april/>

@bill\_wow - I'm just wondering how many times @TheLawSociety @CrimeSolicitors @lccsa have to make exactly the same constructive suggestions to the MoJ and exactly how long it takes for Govt to understand the plight of legal aid practitioners . The ball is firmly in their court.

8<sup>th</sup>: @PipSinks - There am I, 'booted & suited' to do a 'Sentencing Hearing' via video link at 10.45 when, on the dot, the Court emails to say that the hearing has been adjourned to 2.45. Do I stay in my suit, or change? it is a reflection of the times that I am finding this decision difficult.

@PenelopeGibbs2 - Yesterday Lord Chancellor informed @CommonsJustice in relation to remote hearings that "justice [was] being seen to be done". But all criminal hearings are in effect closed to the public (& often to media) so justice is definitely not being seen to be done

9<sup>th</sup>: **The Lord Chief justice is interviewed in The Times: "Any move to judge-only trials would be very undesirable."**

@KarlTurnerMP - I'm delighted to become Labour's new Shadow Minister for Legal Aid. My top priority is doing all that I can to help the people of East Hull overcome the impact of COVID-19, I look forward to working to restore legal aid to the heart of our justice system.

@DannyShawBBC - PRISON LATEST 500 temporary prison cells are to be installed in grounds of 7 jails so more inmates can be held separately during Coronavirus outbreak. The units are prefabricated, built like shipping containers, each with own sink and toilet for "lower risk offenders, Cat C and D

@cpsuk - PROSECUTORS are being asked to prioritise more serious cases and consider the impact of the #coronavirus pandemic when weighing up whether criminal charges are in the public interest, in order to help the justice system continue effectively in the face of current challenges.

@LuNicholls - Hmm. So a tussle over a bag and an alleged spit at someone is now considered an attempted GBH (S.18), due to the Coronavirus according to one keen bean police officer who arrested a client this week. Clearly defence solicitors are still very much needed #keyworkers #fatcatlawyer

10<sup>th</sup>: @JohnCooper54 - My colleague had an interview last night via phone disclosure and prepared statement. CPS Direct said it was insufficient and there had to be an interview. I've just come back from a physical interview. Not the police's fault and I've advised them to put in a complaint.

@davidallengreen - Four things about policing this endemic

1. Police should enforce law, not policy

2. Public health law is not about about public order as an end in itself

3. Bad, over-zealous policing will undermine confidence in public health law

4. Policing is ultimately based on consent

@sdavieslaw - PACE IVs & Microsoft Teams We are making progress, yet many ignore the protocol. However, microphones on laptops struggle to pick up everyone in room. Connection sometimes poor How about virtual IV via Zoom (screen share CCTV etc). Mobile on speaker as backup mic?

11<sup>th</sup>: @TheLawSociety - Given the current situation with #Coronavirus Covid-19, the Criminal Legal Aid Review Accelerated Areas consultation is being extended and the consultation remains \*open\* until further notice

@LEGALBEAGLEOK - Officers please show some restraint when apply COVID 19 powers. Just dealt with a client at Court who was accosted by officers for sitting on a bench eating biscuits. He told them to 'take a hike' and ended up getting arrested. This was Thursday AM. In Court this PM. DJ not happy

13<sup>th</sup>: @CrimeGirl - We could restart jury trials by holding them in the empty sports stadiums, socially distance from one another, and wear headsets for sound quality. The defendant could be held in the away changing rooms. We could play CCTV on the big screen & the Judge could use ref mic.

@jonblackbsb - I have just heard from a police station rep and is in hospital having contracted Covid 19 at a police station on 6th April, which I believe was after the protocol was agreed. "nobody should be going out. I picked it up in Wembley ps. Clients coughing in your face with no mask, no gloves and worst, not even placing g their hands by their mouth When I asked for mask and gloves they said they had none. "On one occasion, they managed to issue a client with mask and gloves and 5 mins into the interview he removed the lot. Police should've stepped in telling him that it's no longer safe and if he doesn't put it back on the interview would be suspended. Also had police officers coughing not wearing mask and not placing hand on mouth either. I picked it up around 6 April and look where it got me. They don't care. I was stupid, that's all. I thought police were looking after whatever is in their domain. I trusted them." Key worker or not, legal aid hero or not. Please don't risk it.

@jonblackbsb - Many officers in @metpoliceuk either claiming not to be aware of the protocol or treating it as an inconvenience. If we return a case when police refuse to observe it the @LegalAidAgency call centre DSCC

simply ring round till they find someone willing to risk their health

**14<sup>th</sup>:** @legalhackette - VIDEO & VIRTUAL HEARINGS: @MoJGovUK data shows 85% of cases in England & Wales on 6 April used audio and video technology. From 19 March - 6 April 2020, use of audio went up from 100 to around 1,850 cases & use of video rose from 150 to around 1,100.

**15<sup>th</sup>: Steve Knight, a police station representative based in Folkestone, Kent dies on his 70th birthday after contracting Covid-19. He is the first member of the criminal defence community to die of the disease. He was described by colleagues as: “a fantastic lawyer. The way he related to clients was fantastic – almost the perfect grandfather. He was the best around”, “a lovely, kind man... who always went the extra mile for clients.”**

@HudsonKerry - Just refused to accept a back up case at Leyton Police Station as simple possession of drugs is not a reason for insisting face to face attendance by solicitor. I support the first firm to refuse. My firm not even on that scheme.

**17<sup>th</sup>:** @EdLCape - I worry about how the lawyer relates to their client remotely, and whether the client is able to trust the lawyer and feel confident in an interrogation in which the lawyer is not physically present.

**20<sup>th</sup>:** @GraceLoncraigne - Client detained at London Police Station has told custody she is pregnant. I ask DDO what measures are in place to prevent her contracting virus. Am told none. Am told it's up to custody staff if they want to wear a mask when dealing with her or not.

@lawsocgazette - Lord chancellor Robert Buckland rules out judge-only trials as solution to [#coronavirus](#) backlog.

**21<sup>st</sup>:** @MelStooks - Yesterday I was one of the duty solicitors at court. I arrived at 9am. I left at 19.50, despite 2 courtrooms sitting. I had plenty of time to see why technology is not really the answer despite the best endeavours of everybody involved.

@sdavieslaw - Delay is now overwhelming in four overlapping & distinct areas of the criminal justice system: 1. Pre-Charge (Released Under Investigation) 2. Post-Charge ( [@CourtsIdle](#) ie CC not being utilised / judicial sitting days) 3. Post-Trial (LAA refusal culture) 4. COVID-19 delay.

@CDissington - My client in cells at court yesterday had COVID. CPS in court remotely Client not brought into court from cells so Judge is ok. As solicitor I am told to

see client in cells. Security guards forced to deal with 2 COVID defendants

**22<sup>nd</sup>: The Health Protection (Coronavirus, Restrictions) (England) (Amendment) Regulations 2020 come into effect, correcting errors in the original lockdown regulations.**

**29<sup>th</sup>:** @SuellaBraverman - Good discussions today with [@thebarcouncil](#) and [@TheCriminalBar](#) about the impact of Covid-19 on legal practice, especially the publicly-funded Bar. A functioning justice system depends on them and I will do all I can to support their work at this time.

@robinthemint - May I point out Suella that solicitors carry out 97% of criminal advocacy. We also do about 99% of police station work. Without solicitors firms there will be no one left to instruct the bar. It's impossible to save the bar without first preventing the collapse of solicitor firms

**30<sup>th</sup>:** @APPGLegalAid - The legal aid system as a whole is not sustainable. Firms across the board had serious concerns about the viability of their businesses long before the current crisis. We need support from the govt to ensure there is a sector fit for purpose when lockdown ends

## MAY

**1<sup>st</sup>:** @LauraJanes\_UK - NEW from the Lord Chief Justice: 'Judges and magistrates can therefore, and in our judgment should, keep in mind that the impact of a custodial sentence at the moment is likely to be greater during the current emergency than it would otherwise be.'

@natalieberman - I have been a partner at Edward Bail Bradshaw & Waterson Solicitors for a year today and to celebrate Bishopsgate custody are ready at 1am for interview when my scheme started at 3pm and I started work at 9. Happy anniversary to me. [#thelifeofalegalaidlawyer](#)

@sdavieslaw - One way of looking at the criminal justice system is this: everyone working within it has for years been rather excellent at keeping sinking ships afloat. It's no surprise to me that 6 weeks into this bizarre world, we have made significant progress. It's complicated.

**4<sup>th</sup>:** @Joanna\_Hardy - "There is categorically no question, at all, under any circumstances, of the right to jury trial being removed." [@CPhilpOfficial](#) is clear and stark to [@CommonsJustice](#) today.

**At the same House of Commons Justice Committee hearing, Legal Aid Minister Alex Chalk suggests**

that “something like over £100m” of completed legal aid work had not been billed by firms.

**5<sup>th</sup>: The UK surpasses Italy to become the country with the highest declared death toll in Europe, with more than 32,000 fatalities.**

**6<sup>th</sup>: @CrimeLineLaw** - Defendants are more likely to receive a jail sentence in video hearings, a report has warned as remote court proceedings rocket because of coronavirus. University of Surrey researchers found that suspects whose cases were dealt with remotely were also less likely to have legal representation. The study, carried out before the coronavirus outbreak, assessed more than 600 video-enabled and in-person hearings at magistrates' courts, and also found that guilty pleas were 3% higher in virtual courts. The report further warned of “a concern that the increased use of video could remove the public's opportunity to see justice being done, and might undermine trust and confidence in the system.” John Bache, chair of the Magistrates' Association, said “justice must trump efficiency. We mustn't blindly go into using technology because it's there”. The Transform Justice charity has called for a moratorium on the expansion of virtual justice pending more research on its impact.

**9<sup>th</sup>: @PenelopeGibbs2** - New research has suggested a correlation between defendants appearing on video from the police station with higher prison sentences & lower levels of legal representation vs face to face hearings.

**11<sup>th</sup>: @CourtNewsUK** - Jurors sitting on the first murder trial in the country to resume after the coronavirus outbreak were told the court could not provide them with face masks today.

**@KarlTurnerMP** - ICYMI, last week I wrote to Alex Chalk after his suggestion that legal aid firms have failed to claim for £100m of work completed. This is just not the reality for many on the frontline of our justice system.

**@CrimeSolicitors** - As it is announced that jury trials are to begin again next week (we have reports some have started this week) we remain concerned about the lack of consultation + lack of expert advice from epidemiologists, architects, HSE as to what measures are needed: <https://www.judiciary.uk/announcements/jury-trials-to-resume-this-month/>

...So it seems the latest position is it is safe to go to work, just not on public transport, and safe to do jury service but not go to a museum. We are being told not safe to see your family but it is safe to sit with total strangers in court or see your boss. Where's the science ?

**13<sup>th</sup>: LCJ gives evidence to the House of Lords Constitution Committee: “if specialist criminal bar**

**& solicitors profession diminishes in size substantially it certainly gives rise to the prospect in the future that we will not be able to recruit the same sort of judges that we have been doing recently...there is more to #legalaid than just paying people enough to keep going The vibrancy of publicly funded legal profession and I would add on the family side as well...is absolutely central to the proper administration of justice and thus the #ruleoflaw”**

**14<sup>th</sup>: Met Police stop and search figures show a surge in the use of powers from March (23,787) to April (30,608).**

**@TheLawSociety** - We have raised centrally all the concerns that our members have raised with us about problems in #courts & have received specific assurances about action being taken in response. If members are not seeing any improvement on the ground they should raise fresh complaints with us

**15<sup>th</sup>: CPS reveals that to date all prosecutions to date under the Coronavirus Act have been unlawful: “All 44 cases under the Act were found to have been incorrectly charged because there was no evidence they covered potentially infectious people, which is what this law is intended for.”**

**@SashaQueffurus** - Conditions in the Magistrates' and Youth Courts need addressing immediately. The safety of our pupils and most junior tenants - as well as our solicitor colleagues and other court users - deserves as much attention as safety in Crown Courts...

...When asked what apparent safety measures were in place, one barrister said "Literally nothing, minus the security guards in the court room who were wearing gloves", and that "minus the lack of people in court, it was like Covid didn't exist"...

..."The prosecutor referred to me as 'cannon fodder'... [my client] had tested positive for Covid and was spitting at people, using it as a 'weapon'... [Cell staff] refused to handle him, gave me some gloves - said they could open the cell door and ask him to stand 2m away"...

..."Only measure in place was that the usher wore a mask", "The whole situation was a joke, I attended in the cells in a room 2.5m squared with the defendant", "Nothing changed in court apart from the prosecutor being more difficult than usual because systems weren't working"

**@deels363** - When I raised concern with DJ about cells having defendants with Covid-19 coming in and out and

said I wasn't prepared to go down there I was told that I shouldn't have come to court

**18<sup>th</sup>: Jury trials resume at a small number of Crown Courts.**

**22<sup>nd</sup>: News emerges that in April, during lockdown, Dominic Cummings travelled from London to Durham while he and his wife were experiencing coronavirus symptoms.**

**23<sup>rd</sup>: @Suella Braverman** - Protecting one's family is what any good parent does. The [@10DowningStreet](#) statement clarifies the situation and it is wholly inappropriate to politicise it.

**25<sup>th</sup>: In Minneapolis, an arresting officer kneels on the neck of George Floyd for 7 minutes 46 seconds (originally thought to be 8:46), ignoring his pleas that he could not breathe. Floyd is pronounced dead shortly afterwards and his death is the catalyst for anti-racism demonstrations around the world.**

## JUNE

**2<sup>nd</sup>: @CLH\_CraigHarris** - Just had a trial that was meant to take place in October 2019, which got adjourned to April 2020 then couldn't take place due to COVID, now further postponed to October...2021. Second such case recently. Astonishing delays to justice

**8<sup>th</sup>: @legalhackette** - PRISON UPDATE from [@MoJGovUK](#) as of Sunday 7 June:

485 prisoners have tested positive for COVID-19 across 80 prisons

954 prison staff have tested positive across 105 prisons

26 Prisoner Escort and Custody Services staff have tested positive

**@deels363** - I waited all day to do hearing, the court server went down so I couldn't join and when I asked through client/cps for case to be adjourned until tomorrow PM instead of AM as I have a prison visit the judge said no.

**9<sup>th</sup>: @DannyShawBBC** - Other key points from Justice Questions: Crown Court caseload in England/Wales has increased from 39,000 to 41,000 during Covid period... and a statement will be made "as soon as possible" about probation - amid suggestions Govt is going to dump private sector contracts

**@LuNicholls** - 28 cases listed in Youth court today. 28!!! All attendances required. That's ONE court room in a court where there are ELEVEN court rooms. Dear

Government....How is that acceptable? #keyworkers #lawyers #SocialDistancing #StaySafe

**11<sup>th</sup>: @MelStooks** - Yesterday I was told my trial at Huntingdon YC would be listed at midday. Client and I travelled on public transport from SE London to Huntingdon. On arrival was told no cases listed, could be at Cambridge or Peterborough. Eventually we were asked to make our way to Peterborough. We eventually arrived at Peterborough YC to be told that our trial could not be heard as the morning trial had overrun. Case was adjourned. No one could explain (a) how CPS & witnesses had been notified of court change when we hadn't (b) how this could all be justified

**12<sup>th</sup>: @CrimeLineLaw** - 7 Crown Courts will resume jury trials next week.

Swansea Crown Court (15 June)

Newport Crown Court (15 June)

Merthyr Tydfil Crown Court (15 June)

Wood Green Crown Court (15 June)

Nottingham Crown Court (15 June)

Bradford Crown Court (16 June)

Caernarfon Crown Court (17 June)

**16<sup>th</sup>: @JoshuaRozenberg** - On Law in Action, [@BBCRadio4](#), 4pm, the lord chief justice suggests ministers should consider limiting the availability of jury trials if Crown Court delays become unmanageable. All "either-way" cases would be tried by a judge and two magistrates.

**@CrimeSolicitors** - We cannot and must not allow the public to be misled on case backlogs. Pre covid the case backlog was Magistrates 406,610 Crown Court 39,214 cases It's now Magistrates 483,678 Crown Courts 40,526 The backlog was caused by the sickness of chronic underfunding + not the pandemic

**@Beheshteh\_E** - "Between 2010 - 2019,

162 magistrates' courts have closed, out of 323,

90 county courts have closed, of 240,

18 tribunal buildings have closed, of 83,

17 family courts have closed, of 185,

8 crown courts have closed, of 92.

And don't get me started on sitting days."

**@CrimeSolicitors** - We cannot and must not allow the public to be misled on case backlogs. Pre covid the case backlog was Magistrates 406,610 Crown Court 39,214

cases It's now Magistrates 483,678 Crown Courts 40,526  
The backlog was caused by the sickness of chronic underfunding + not the pandemic

**18<sup>th</sup>:** @TheLawSociety - Members will be aware that coronavirus-related guidance from the LAA was initially due to last until the end of June. The LAA has indicated to us that, subject to some limited changes, the existing guidance will be extended; formal communications on this will be published shortly

**19<sup>th</sup>:** @TheLWA - If solicitors deal with cases remotely or on video-link to Charing Cross police station (investigation/virtual Court), conversations on phones between yourself and a suspect/defendant \*may\* be monitored; the confidentiality of lawyer-client communications may be compromised.

**20<sup>th</sup>:** @DavidLammy - Jury trials are a fundamental part of our democratic settlement. Criminal trials without juries are a bad idea. The Government need to pull their finger out and acquire empty public buildings across the country to make sure these can happen in a way that is safe.

@HudsonKerry - I'm not sure the gravity of the situation with regards to crime firms not having any crown court trial income now for 3 months is really hitting home with those making policy decisions. It's quickly becoming a case of not that solicitors "won't" but they will not be able to

@paulbaker14 - Had e mail from court demanding why I had not served dcs, I had to explain there was something called COVID-19 and prisons are in lockdown etc etc. They are going to list for non-compliance... bring it on...

**The Judicial Office releases a statement on Remote Working: "we are now not at the same crisis levels and therefore the law and Criminal Procedure Rules should be followed with the expectation that advocates will attend in person unless they have made an application to the court to attend remotely..."**

@HudsonKerry - This was announced to @lccsa late yesterday afternoon. @TheCriminalBar and others have worked hard last night and this morning to even get this official announcement.

@KarlTurnerMP - There is approximately 40K Magistrates' Court backlog due to #COVID19. Judiciary announcement effectively orders all lawyers back to work - physically - on Monday. What preparations have been made in Mags? What discussions have been had with CLSA/LCCSA?

**21<sup>st</sup>:** Following a hastily arranged meeting with representative bodies, the Judicial Office publishes Updated Guidance to "clarify the...message on Friday in order to address concerns..." The Chief Magistrate publishes a note to her DJ(MC)s on the application of the "interests of justice" test.

@CrimeLineLaw - Very impressive (unpaid) work by representatives in relation to yesterday's remote working announcement. Thank you. Good to see that when a mistake is made, and we all make them, that good sense prevails, talks take place, and matters are sensibly resolved.

@lccsa - We are grateful to the Chief Magistrate and Deputy Chief Magistrate for sending this message out to colleagues which not only recognises the sensitive issues around those who are shielding but also the pressures on defence lawyers

**22<sup>nd</sup>:** @CourtNewsUK - Westminster Magistrates Court is crowded this morning. All advocates have been told to attend in person following guidance over the weekend. Unlike on public transport there is no hand sanitiser or mask guidance. The main two criminal courts have 32 and 21 cases listed...A number of cases are bail cases - non urgent matters from as far back as 2018. There are three extradition courts running. District Judge Hamilton has expressed concern about the 'radical change in the way that court are operating'

@MonidipaFouzder - On extended hours, HMCTS chief executive Susan Acland-Hood says: "The rep bodies not enormous fans of this plan, but work we can do with the profession to get into a place where we can make this a pragmatic, emergency solution we use whilst we have these backlogs to address."

**23<sup>rd</sup>:** Giving evidence to the House of Commons Justice Committee, Robert Buckland indicates that legislation to limit the right to trial by jury (or to reduce the size of juries) might be introduced within weeks.

@wainwright\_tom - Every criminal barrister and solicitor, legal executive and paralegal, prosecution and defence, must make it clear for the sake of the integrity of the criminal justice system for years to come that they will not cooperate with any system which removes the right to trial by jury.

@jonblackbsb - How often do we actually think that lay magistrates dissent from the Circuit judges in crown court appeals? I suspect very seldom, jurors are unlikely to be any less willing to do so. The fanciable idea of two



jurors adjudicating with a Judge is simply window dressing

@DavidLammy - The crown court backlog stood at 37,000 cases before the crisis, and the Government did not consider restricting on jury trials. The backlog is now around 41,000 and the prospect is being raised. Why is this change proportionate now?

26<sup>th</sup>: @kirkkorner - If they find extra buildings for court hearings and trials, 'Nightingale courts' doesn't ring true as a name. If you ask me, 'Blackstone courts' is a tad niche. Might I suggest 'Blackfriars crown' and Camberwell Green magistrates' would be better names for any set up in London.

27<sup>th</sup>: @cwell25br - Lord Chancellor: said he preferred to not restrict #jurytrials. WELL DONT: increase capacity by 'Blackstone' courts; pre-Covid backlog was 39,214 in crown courts and 406,610 in magistrates' courts. EASY SOLUTION :Spend money on CJS, address years of austerity cuts #savejurytrials

30<sup>th</sup>: @LuNicholls - Well done Bromley Magistrates! Showing exactly how to spread the coronavirus as quickly as possible in a Court setting. All cases listed at 10am. Everyone stood around. No social distancing

## JULY

1<sup>st</sup>: @LuNicholls - And just like that, we have received an email from Bromley Magistrates Court in the last 20mins giving a dedicated & staggered time for our court hearing next week!!! #ThePowerOfTwitter

4<sup>th</sup>: **The Health Protection Regulations 2020 come into force in England, replacing and relaxing the previous lockdown regulations and giving the Secretary of State powers to make declarations restricting access to public outdoor places.**

**Pubs, cinemas and restaurants reopen.**

7<sup>th</sup>: @HudsonKerry - Today I have emailed a London Magistrates' Court to have my client's trial vacated as I can't secure a legal video link until 2 weeks after the trial date despite applying within 48 hrs of his remand. Reality on the frontline.

8<sup>th</sup>: @staylor76 - 37K cases awaited trial in the Crown Court before COVID. There are now 40K. This is because Gov won't pay for courts but now they pay for your dinner. Priorities? #JusticeOrPizza @TheCriminalBar

@natalieberman - Driving 25 miles one way to a MC to ask for an adjournment as emails aren't answered is a good use of time, said no one ever

@TheLawSociety - We say no to extended court hours - In our joint statement @LawSocPresident Simon Davis and @thebarcouncil Chair Amanda Pinto QC outlined our position on jury trials, court capacity and dealing with the backlog. Read about our alternative proposals...We - oppose in principle the flexible operating hours initiative - have representatives on the working groups - have raised all of the objections that members are raising. We are contacting officials at HCMTS and asking them to clarify the position urgently: <https://www.lawsociety.org.uk/topics/criminal-justice/joint-statement-on-jury-trials-court-capacity-and-dealing-with-the-backlog>

@lccsa - Today's CJS digest from Twitter in the newer kinder post #COVID19 world where we are told to stop whining and get on with it

1. Defence solicitors receiving costs order for not complying with directions despite COVID / furlough pressures
2. Magistrates ordering that if defendants don't appear on Saturday they are convicted in absence
3. Courts ignoring concern #COVID19 Health risks and aggressive court managers.

9<sup>th</sup>: @CEOofHMCTS - Apologies for delay in getting back to you. Mags' courts have always sat on Saturdays & local judicial groups sometimes list additional traffic cases to clear backlogs. All parties can apply to have the case moved to a weekday if attendance is not possible.

@crimebrief - This is a short term measure for Mags Court OPL cases. We have all lost months' worth of work, so we need to make that up. By getting the courts working normally again means that we get CC cases pushed up and Mags Court work returns to normal. Firms can bring staff back from Furlough. I have no desire to work extended areas but I do have an interest in firms being financially viable. The issues with CC working are separate to this. We are paid enhanced duty rates at the weekend

@kirkkorner - Last Sept on weekend courts: "Saturday courts are known as Occasional Courts...are kept only for overnight cases...run on a skeleton staff" HMCTS now: "Magistrates courts have always sat on Saturdays. Parties can apply to have case moved to weekday if attendance is difficult."

**10<sup>th</sup>:** @SolicitorSonya - The problem we have with extended working hours for courts isn't that we don't want to do the work, it's rather we can't cover the extra hours in addition to current workloads. We don't work on a shift system where can pick up an extra shift for extra pay or a day off in lieu.

**11<sup>th</sup>:** @liamivolane - I accepted a case at 03:34. I have called 11 times since then to speak to custody, can you guess how many have been answered? Still haven't spoken to custody, client coming up to 12 hours detention. And people wonder why we have a backlog and won't work extended hours.

**12<sup>th</sup>:** @KarlTurnerMP - As I was saying earlier, DO NOT let @RobertBuckland tell you the backlog in the criminal courts is down to COVID-19. It isn't. The CJS is being held together by still dedicated but broken and exhausted criminal (defence) practitioners.

**13<sup>th</sup>:** **Appearing on Radio 4's Today, the Lord Chancellor claims that there is "a lot of support" for extended court hours.**

@sdavieslaw - The Lord Chancellor @RobertBuckland will be aware that the following organisations have all publicly rejected Flexible Operating Hours: @TheLawSociety, @thebarcouncil, @TheCriminalBar, @JuniorLawyers, @ResFamilyLaw, @lccsa, @SECircuit, @WCWF

**14<sup>th</sup>:** @JohnMcNamara - Second day on the bounce at Snaresbrook. Toilets still filthy. The empty coffee cup I left in the bar canteen yesterday still there, crumbs all over the tables. No cleaning whatsoever. @HMCTSgovuk you are meant to keep courts clean & SAFE. Completely negligent at the moment.

@HudsonKerry - Just received objection from CPS to our application to vacate a magistrates' trial as earliest prison video link is 2 weeks after the trial date when we applied within 48 hrs of plea. Objecting will not magic up a video link. What are we supposed to do? Genuine question.

**15<sup>th</sup>:** **The prime minister commits to an "independent inquiry" into the pandemic, but adds that now is not the right time for an investigation.**

@lccsa - 95% of members who responded to our survey made clear their opposition to weekend and evening listings which are discriminatory and unfair

@RobEdward90 - Coming to you live from a Magistrates' Court, where at 17:00 we started the evidence in a Newton hearing listed at 2pm. This is the 3rd trial listed before this bench of justices today. And

click share isn't working properly. And @MoJGovUK want to 'extend' court hours.

**19<sup>th</sup>:** @legalhackette - BREAKING: @MoJGovUK announces the 10 venues for the "Nightingale" courts that from next week will hear civil, family and tribunals work as well as non-custodial crime cases.

@Dan\_SW\_Jones - So the only "Nightingale Court" in London that will be doing crime is Prospero House on Borough High Street. Just a stone's throw from Blackfriars Crown court, a clean, spacious and functioning court building that the MoJ sold off and closed 7 months ago....

**20<sup>th</sup>:** @sdavieslaw - I welcome Nightingale Courts, but I don't welcome 10. We need 100+. This is a world-wide pandemic, and I do not believe for a second this Govt cannot hold a COBRA meeting and make the order to build emergency courts. It is that simple. Imagine if we have another lock down?

**21<sup>st</sup>:** @legalhackette - "I don't regret tweeting in the way that I did" over Cumming's lockdown Durham trip, attorney general @SuellaBraverman tells @CommonsJustice. She says it wasn't a legal opinion or outside the remit of what she can say & is disappointed the issue has been "needlessly politicised"...

"The right to trial by jury is not going to be compromised -- that will remain intact," AG tells @CommonsJustice, to deal with backlog of cases & says there are "lots of options are on the table"...

AG says the issues of extended hours is "all still in a flux" and it's not for her to comment...

Asked if there will be an increase in legal aid rates, AG gives lawyers the equivalent of the Thursday night clap for carers -- blustering her thanks to the "heroic job" of lawyers responding to crisis, but says she not able to comment on whether there will be more money.

@KarlTurnerMP - Dear @RobertBuckland, Not sure if I missed it but was there any mention today of a pay increase for those frontline workers, the lawyers that is? The public servants representing people in our Courts? Remember them? Not had a fee increase for 25 years. Well? Best, KT

@CrimeLineLaw - Didn't we do well! Message from the Lord Chief Justice and Vice-Senior President of Tribunals: Senior Salaries Review Body | Courts and Tribunals Judiciary  
<https://www.judiciary.uk/announcements/message-from-the-lord-chief-justice-and-vice-senior-president-of-tribunals-senior-salaries-review-body/>

@kirkkorner - Tomorrow's Highbury Corner mags has a staggering 182 cases listed for the morning session of a single courtroom. Rest of the court is busy also. This appears to be a trend...

22<sup>nd</sup>: @MonidipaFouzder - On extended hours, HMCTS chief executive Susan Acland-Hood says: "The rep bodies not enormous fans of this plan, but work we can do with the profession to get into a place where we can make this a pragmatic, emergency solution we use whilst we have these backlogs to address."

@LegalHackette - Acland-Hood says seeing a defendant in a secure dock has more impact on juries than seeing them appear online.

@LegalHackette - Buckland says he is "working daily" & "engaging with the Treasury" and hopes to make an announcement as soon as possible to provide further relief to "hard-pressed" legal aid lawyers...

"I am absolutely committed to the right of trial by jury" says Buckland, but depending on pandemic, it would be wrong to "wholly rule out legislative options". Trial by judge + 2 lay mags is "not an option I would seek to pursue", but says he may look at reduced, war-time juries...

For now, Buckland says he will pursue "non-legislative options" including increasing court hours and capacity.

@HudsonKerry - 95% of solicitors responding to our @lccsa survey said no to weekend extended hours. 96% said no to extended hours during the week. Pretty clear message from those expected to work those hours. We can't make employed solicitors work outside their contracted hours.

23<sup>rd</sup>: @jonblackbsb - So, I'm running a sweep on the first firm/ chambers to start producing branded face masks for their staff to wear at court... Or perhaps turn up at police stations with the words "No Comment" emblazoned across it. More effective than any business cards

24<sup>th</sup>: @HMCTSGovuk - We'd like to apologise for the experience at Highbury & other London courts this week. We've been exceptionally busy trying to balance a process of on-going adjournments for lower priority work as well as gradually increasing the volume of higher priority work coming to court. Various factors meant the proportion of work that should've been adjourned was not. This wasn't intentional & we're sorry for the impact it had. Additional measures now in place have helped manage re-allocation of dates - reducing delay. We're working hard to put things right

28<sup>th</sup>: The number of coronavirus cases in the UK exceeds 300,000.

30<sup>th</sup>: @Joanna\_Hardy - A pilot of extended hours! Huge deja vu vibes. Wait. That's because we already \*did\* a pilot. Here's what some advocates said: "...an utter misery and often unworkable" "...utterly barbaric" "...family suffer" "...I am due to have a child ... this would be impossible for me"

@LegalHackette - Looks like criminal lawyers are being shafted again by MoJ/HMCTS, with Saturday sittings & extended court hours during the week, with no extra money, to tackle growing backlog of cases (over half a million, with delays of up to three years for trials) caused by budget cuts.

@CrimeLineLaw - The Justice Committee has announced an inquiry into ways in which the delays may be dealt with. The inquiry is to be called Court Capacity. It will review the practical experience of delays in the courts for lawyers, witnesses, victims and defendants. It will investigate whether the increase of 4,500 court sitting days will be sufficient to clear the backlog of cases and what long term solutions to the delays, including digital hearings, may be possible. @neill bob: <https://committees.parliament.uk/work/481/court-capacity/>

@CommonsJustice - We have published our report on the impact of #COVID19 on courts. We commend the rapid response of @HMCTSGovuk and the Judiciary to the virus. But we are alarmed by the increased number of outstanding court cases in some jurisdictions. <https://publications.parliament.uk/pa/cm5801/cmselect/cmjust/519/51902.htm>

31<sup>st</sup>: @TheLWA - Chaos at Highbury Corner MC this morning. Wi-fi not working, lists not available, defendants attending to be told of adjournments and the Court staff accepting that adjournment letters have not been sent out to defendants or solicitors.

## AUGUST

1<sup>st</sup>: @HJACrimeTeam - We have just been told on a Saturday that case management hearings listed for Monday, where we have been told clients are required to attend despite numerous requests to have them excused, have all been adjourned. All have been prepared... The email sent on a Saturday was of course picked up straight away because every criminal practitioner is working under immense pressure to keep this broken system going and to look after their clients regardless of family commitments.

3<sup>rd</sup>: @CommonsJustice – We have published our report on the impacts of #COVID19 on the legal professions. We are concerned that without further support many publicly-funded legal service providers may collapse, reducing access to justice. <https://committees.parliament.uk/committee/102/justice-committee/news/147657/support-lawyers-now-or-they-may-not-be-there-when-justice-is-needed/>

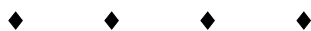
@KaylaaStrachan – So you can go out and have £10 off your bill Monday to Wednesday but you can't have access to Legal Aid and proper justice. Potentially the difference between your whole life being upturned and possibility of prison etc

@legalhackette - 23 crown courts trials listed in London today 54 of the 126 courtrooms sitting. Some are overflows for trials to allow for social distancing, but others are empty. Why is @MoJGovUK / @HMCTsgovuk paying for extra courts when courtrooms are empty

@KeimaPayton - Please explain @CEOofHMCTS why security at COWMC aren't enforcing the wearing of masks. My colleagueis (extradit duty top floor) reports 25 people outside Court with no masks! The only screen is in front of the Judge. Do we NOT matter? Do you not owe us a duty of care? Outraged

@RichardHuw2 - This month I will have made more money selling my old phone than I did practicing criminal law.

4<sup>th</sup>: @CrimeLineLaw - Ten new emergency Crown Courts, dubbed 'Nightingale Courts', have been designated by the Ministry of Justice, in a bid to clear some of the backlog of criminal cases that were halted at the start of lockdown. But within minutes of the first one opening in London, legal files went missing, hearings had to be adjourned due to technical difficulties and the judge was forced to explain the lack of a dock to confused jurors. Two trials were scheduled at Prospero House, which is sitting as an extension to Southwark Crown Court, and eventually got going, but both had to be adjourned. Sally Cahill QC, judge at one of the trials, said setting up the Nightingale Courts had not been easy. "The provisions are all very difficult and it has not been an easy task. Across the country I've heard stories of court staff being tired and exhausted because of working so hard."



#### **WHERE NEXT FOR TRIAL BY JURY?**

*In the face of government suggestions that the right to jury trial may be curtailed, and following on from an article in April's issue, Peter*

*Binning (founding partner of Corker Binning) considers how remote jury trials might be the answer.*

Most lawyers must have read the black letter law which enforced the lockdown on 23 March. Here, in our lifetime, was an example of the harsh reality of the state exercising authoritarian power over all of us. It was perhaps no surprise that the prime minister was so reluctant to put into law a prohibition on British people going to the pub. As lockdown came in, so jury trials were suspended and soon afterwards existing ones were either abandoned or adjourned.

Although jury trial has been re-started in a limited way, there is still a long way to go in this crisis and juries may yet be a casualty of it. The Lord Chief Justice said in a speech on 28 July that "Policy makers and Parliament may yet have to consider radical but temporary measures to aid that process [getting sufficient jury trial capacity to deal with the backlog of cases]."

One radical measure which is a lot more palatable than trials without juries is virtual jury trial. Imagine an online virtual trial system with juries sitting in polling stations local to their homes. This system is ready now and has been evaluated and tested. True it won't be right for the most serious and complex cases but it will work for many either way cases and for less complex indictable only ones. Radical, yes. Ahead of its time, certainly. Worth considering? Absolutely, if you value our system of justice as a beacon of freedom in a world where authoritarian governments are on the rise. The example we set in our quaint old common law tradition still has some influence on other countries and that is important to our standing in the wider world. We should not be giving up jury trial when there is a viable and fair alternative using the same technology that has kept the whole country going for the last four months.

In late March, during the very early days of lockdown, the Scottish government proposed the temporary suspension of jury trial. JUSTICE, the all-party law reform charity had already started to think about how to solve the problem of jury trials in the pandemic. The Scottish government proposal, although it was promptly abandoned, was a sign of things to come south of the border. By May there were senior members of the judiciary current and retired calling for trial by judge alone or with two magistrates and jury trials were tentatively re-started. By early June JUSTICE had completed four pilot virtual jury trials, the last one had HMCTS support with all jurors in a local polling station, all other participants remote and a live link to a real prison. All the pilots were independently evaluated (see

<https://justice.org.uk/our-work/justice-covid-19-response/>).

The lockdown soon saw the backlog of jury trials go up to 40,000 as everyone got used to working from home if they could and even Parliament went online. Although many parts of the justice system adapted very quickly to new ways of working, the criminal courts were more reluctant to do so and the idea of a virtual jury trial was not accepted as a practical alternative to the real thing.

Despite opposition to the idea of a remote jury trial, there were a number of advantages of the virtual platform which bear further study as we wait to see whether a second Covid wave will hit us and jury trial will be suspended again. That is a real risk, as is the threat of civil unrest and the army having to be deployed to back up the police. When the government starts to lose the confidence of the citizen, as it may well start to do, maintaining jury trial will be vital in securing public confidence in the criminal justice system.

One major advantage of the virtual jury trial is the preservation of a 12 member jury. Reduction in jury numbers, seems like a good solution at first glance and has the historical 1940's precedent but it is not a solution that finds favour today. A jury with fewer jurors is likely to deliver less representative justice and verdicts unduly influenced by dominant members.

On the remote platform, developed by AVMI, a company with long experience in court technology, a jury of 12 is clearly visible to all participants and to themselves. The defendant also has the great advantage of being able to see everyone in the court and to see the faces of the advocates throughout the trial. Private consultation with defence counsel and client was made possible via a private video link and documents and photographs were easily shown to all those present in the virtual court room.

In the fourth pilot, the use of a "jury hub", a single location for the jury, was tried out and proved to be the best means of ensuring that jurors received consistent technical facilities and the best environment in which to engage with each other when it came to their deliberations. Jurors also had a direct line of communication to the judge. Careful preparations were made for jurors to be introduced to the virtual court room and to ensure that the court room formality was preserved. Advocates and judge were robed and there was a court crest was prominently displayed.

The feedback from jurors who participated in the pilots was overwhelmingly favourable even from those who were most sceptical to begin with.

Fears were expressed during the pilots of undue influence on witnesses as well as the problem of judging demeanour in a remote environment. These concerns are not as significant as they might seem. Witnesses can be intimidated in normal trials and in recent years there have been many more cases where evidence is given by witnesses using remote links. Demeanour as a basis for assessing witness evidence has been called into question in several cases in recent years (See, for example, R (SS v SSHD [2018] EWCA Civ 1931 per Leggatt LJ para 49: <https://www.bailii.org/ew/cases/EWCA/Civ/2018/1391.html>). Most witnesses in physical courts now give evidence seated so that court participants can only see their head and shoulders. The virtual court gives all court participants a close up view as each witness gives evidence, arguably providing a sufficient basis for assessing demeanour to the extent that it is really relevant to the evidence in the case.

So think again about virtual jury trial and if you have not read it yet, do take time to read the evaluation of the JUSTICE pilot trials as we wait to see whether the court system will have any hope of coping with the backlog in the criminal courts. The Lord Chief Justice was right to say that more radical measures may be needed. The profession also needs to get behind a practical solution to getting more trials up and running and lawyers back to (virtual) court.

*In September, the LCCSA hopes to host an online debate over the future of trial by jury and whether in certain circumstances its availability should be restricted.*



## BRUCE REID'S COVID DIARY

### February

25<sup>th</sup> - Fly back from Himalayan holiday predicting this is going to be a mess. Buy anti-pollution mask at airport.

26<sup>th</sup> - Buy thermometer and aspirin, ibuprofen, throat spray, I figure there will be a run on this stuff.

27<sup>th</sup> - Wife mocks my 'Holocaust Beans' stash in the cellar – I reply that we won't need to loot the supermarket for a couple of weeks thanks to my forward planning and besides and they keep forever.

### March

26<sup>th</sup> - Phoney war is over, this is getting serious, even the Government is worried. Roundly bollocked by a Leading Junior mate on the phone from his country seat – tells me I am crazy to go to Court. He is fact stays in wellington boots on said farm for 4 months.

31<sup>st</sup> - Duty at Croydon Magistrates. Assemble the other Duties and persuade them that that none of us will go into the cells. DJ Green agrees that it's unsafe. Defendants brought up to empty courtroom for instructions. Decide I am not going to Court until this is over in a couple of weeks...

### April

1<sup>st</sup> God decides for me. Weak as a kitten, sweating headaches etc. Bedridden. Wife diagnoses manflu. I am more worried.

2<sup>nd</sup> - 14<sup>th</sup> Temperature of 102 some days, and some when climbing the stairs seems like an ascent at 5000 meters. Wife still diagnoses manflu, brings occasional Heinz Tomato Soup from the 'Holocaust Beans' stash. Consider calling 119 but given that the Official Government Advice is "Wait until you are dead and then ring us" it doesn't seem worth it.

15<sup>th</sup> - Sort of recovered. No point in going to court, there is no work. Get used to this, stress level plummets, getting quite good at the rowing machine. Rhinitis greatly improved from the lower levels of pollution. Wife working from dining room table, doing double her caseload. She gets 2 gourmet meals a day given that I have nothing to do and a world class collection of cookbooks.

### May

...and repeat...

### June

1<sup>st</sup> - Spend 8 hours on the remote to Bromley YC for a breach of bail. Welcome to the future.

Get antibody test back from blood lab. Positive. Never been so pleased to be ill. I might be immune!

3<sup>rd</sup> - Hold struggling wife over the kitchen table and stab her with a spring-loaded lancet so she bleeds into a test tube. Despite her purported consent to this "You will have to prick my finger, Honey, I can't face it", my marriage is on the brink for 48 hours and even more so when she tests negative. "You GBH'd me for nothing!" she fumes.

10<sup>th</sup> - It's one of the hottest days of the year. I am clad in a pair of embarrassing cargo shorts and little else. The Zoomsuit is hung on the back of the chair to be put on at the last minute. Instead of a CVP link to Croydon I get a sudden call from DJ 'X' - "Mr Reid I am just hearing your case of Davidson..."

Jesus! Don't let them tell me to put on the video!!!

They must be telepathic and desist accordingly.

### July

1<sup>st</sup> - Go back to Croydon physically. The tube is empty, the train deserted. I quite like this. What I don't like is that Croydon is even more chaotic than before. Still, its nice to see the same old clients and give them the elbow of greeting, smiling at them in my acrylic visor. "Very fetching Mr Reid!, says DJ Green.



# lccsa

**London Criminal Courts Solicitors' Association**